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Written Testimony Opposing House Bill No. 5476, An Act Expanding the Use of Drug Dockets

Senator Coleman, Representative Tong, and members of the Judiciary Committee. My name is David McGuire, and I am the Legislative and Policy Director for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in opposition to House Bill 5476, An Act Expanding the Use of Drug Dockets, as we question whether drug courts are effective and are concerned that they could be misused.

As an organization committed to freedom, justice, and equality, the ACLU of Connecticut seeks to defend and promote civil liberties for all people, including people struggling with substance abuse. At a time when opiate use has placed addiction squarely at the center of national and local conversations, treating substance abuse as what it is—a public health issue that requires a health-centered approach—is critical. We therefore support diverting our neighbors who are grappling with drug use into medical treatment before they enter the justice system. Unfortunately, this proposal would subvert, not accomplish, that worthy goal.

Judges are experts in the law, not medicine, but this bill asks them to be both. Allowing judges to make treatment decisions for people struggling with addiction, a complicated disease, is inappropriate at best and dangerous at worst. By creating a “treatment or prison” ultimatum, drug courts could coerce someone into medical care, even if a program is not safe, appropriate, or culturally prepared to meet their needs. Individuals have a civil liberty right to make their own healthcare decisions, and courts that sentence people to treatment can violate that right.

Furthermore, we are concerned that drug courts could predicate individuals’ access to treatment on their admissions of guilt to crimes. Requiring someone to admit guilt in order to opt for treatment would violate his or her due process rights. In a similar vein, placing an individual in jail if he or she “fails” a drug treatment program after a drug court referral would reflect an archaic misunderstanding of addiction. This approach would be unjust and unrealistic.

We also have serious doubts regarding drug courts’ efficacy. Indeed, the mixture of punishment and rehabilitation can create a barrier, not an entry point, toward meaningful treatment. According to the Drug Policy Alliance, a national expert, drug courts may not reduce recidivism, incarceration rates, public costs, or drug use. The Alliance also found that drug courts have particularly failed minority communities, in large part due to lack of

culturally competent programming. In addition, drug courts may not help the very people who need addiction treatment most. A National Drug Court Institute study found that nearly half of drug courts nationwide exclude people with histories of treatment for drug use, and nearly 7 in 10 exclude people who have histories of struggling with both mental health and drug use.

Governor Malloy has asked the Sentencing Commission to examine diversionary programs, and we should wait for the commission to complete that task before expanding drug courts in our state. Solving Connecticut's drug abuse crisis requires a coordinated and comprehensive effort from healthcare providers, law enforcement, social service agencies, and more. The justice system can and should play a role in this fight, but we should make absolutely sure that solutions will reduce, not increase, the harm that addiction has already inflicted on our communities.

We encourage you to oppose House Bill 5476.